



**The Comptroller General
of the United States**

Washington, D.C. 20548

John Meloy

Decision

Matter of: KCL Corporation

File: B-227593

Date: July 16, 1987

DIGEST

Protest that large corporation will benefit from inclusion of particular commodity on procurement list for noncompetitive purchase from handicapped concerns under the Wagner-O'Day Act, and that commodity thus should not be included on the list, is dismissed, since the Committee for Purchase from the Blind and Other Severely Handicapped, not the General Accounting Office, has exclusive authority to determine the suitability of items for inclusion on the list.

DECISION

KCL Corporation protests the General Services Administration's (GSA) decision to include reclosable plastic bags on the list of items to be procured on an exclusive, noncompetitive basis from nonprofit workshops for the blind and other severely handicapped.

We dismiss the protest.

The Committee for Purchase from the Blind and Other Severely Handicapped was created by the Wagner-O'Day Act, 41 U.S.C. § 46 et seq. (1982) (implemented by 41 C.F.R. part 51 and the Federal Acquisition Regulation (FAR), 48 C.F.R. subpart 8.7 (1986)). The Committee, comprised of 15 members, including one GSA employee, directs the procurement of selected commodities and services by the federal government from qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for those individuals. The Committee is solely responsible for establishing and publishing in the Federal Register a "procurement list" of commodities and services that it determines are suitable for procurement under the act. The Committee is authorized to add and delete commodities and services from the list as it deems appropriate. See Rappahannock Rehabilitation Facility, Inc., B-222961.3, Sept. 10, 1986, 86-2 CPD ¶ 280.

039478

KCL principally maintains that GSA should not set this commodity aside for inclusion on the list and procurement under the act because, while it may be somewhat beneficial to the workshops, an overwhelmingly greater benefit will be realized by a large corporation competitor of KCL's that furnishes the raw materials to the workshops. KCL thus asks that we determine this commodity to be inappropriate for inclusion on the Committee's procurement list.

As we read the act, the Committee--not GSA or our Office--has exclusive authority to establish and maintain the list in accordance with the overall purpose of the act. As indicated above, this authority specifically encompasses discretion to add particular commodities and services to the list that the Committee determines are suitable for procurement from handicapped concerns. As there are no statutory or regulatory guidelines or restrictions applicable to the Committee's determinations of suitability, aside from the broad purpose of the act, we simply would have no basis for finding that the inclusion of a particular commodity or service on the list is improper. As for KCL's specific argument, the fact that some large business may benefit indirectly from inclusion of the commodity on the list by virtue of its business dealings with the workshops clearly is not, under the act, a basis for prohibiting inclusion of the commodity on the list.

The protest is dismissed.



fa Ronald Berger
Deputy Associate
General Counsel